

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Arich Don et al.	Art Unit	: 2163
Serial No.	: 10/749,692	Examiner	: Marcin R. Filipczyk
Filed	: December 29, 2003	Conf. No.	: 2149
Title	: DATA VERIFICATION FOLLOWING DATABASE WRITE		

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO DECEMBER 8, 2008 "COMMUNICATION RE APPEAL"

In reply to the "Communication re Appeal" mailed on December 9, 2008, Applicant submits the enclosed Amendment that was inadvertently omitted from the filing of the Appeal Brief of October 6, 2008. The Appeal Brief refers to this Amendment on, for example, pages 1 and 25.

In a telephone call on December 18, 2008, to the Applicant's representative, the Examiner confirmed that the Amendment could be re-filed along with a statement averring that the omission was inadvertent.

Applicant notes that the "Communication re Appeal" states that the notice of appeal filed on October 6, 2008 is unacceptable, but does not specify why. Accordingly, there appears to be no reason for regarding the notice of appeal as unacceptable. Moreover, the Notice of Appeal was filed on June 5, 2008, and not on October 6, 2008.

Applicant further notes that the appeal stands dismissed because of an inconsistency between the claims recited in the appeal brief and the claims pending prior to entry of the enclosed amendment.

Applicant submits that the dismissal is improper because an appeal brief was in fact timely filed. The proper action, according to MPEP 1205.03, would have been to object to the appeal brief and to require a corrected appeal brief within thirty days. Moreover, since the notice of appeal was filed on June 5, 2008, the deadline for filing an appeal brief had not yet lapsed as of December 8, 2008. Accordingly, Applicant requests withdrawal of the notice of dismissal.

No fees are believed due with this paper. Please apply any charges or credits to deposit account 06 -1050 referencing Attorney Docket No. 07072-159001.

Applicant : Steven T. McClure et al.  
Serial No. : 10/881,131  
Filed : June 30, 2004  
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Attorney's Docket No.: 07072-161001 / EMC-04-058

In addition, since an appeal brief was timely filed, no extensions under Rule 1.136(a) are believed to be necessary. However, to the extent an extension is deemed necessary, please regard this as a request for such extension and authorization to charge the extension fee to our deposit account specified above.

Respectfully submitted,

Date: January 5, 2009

  
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Reg. No. 41,942

Enclosed: Amendment under 41.33(a) (8 pages)

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